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COMMITTEE ON NATURAL RESOURCES
January 26, 2005
LB 31, 32, 137, 508, 359, 140

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, January 26, 2005, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 31, LB 32, LB 137, LB 508, LB 359, LB 140, and also gubernatorial appointments. Senators present: Ed Schrock, Chairperson; Elaine Stuhr, Vice Chairperson; Carol Hudkins; Gail Kopplin; Bob Kremer; LeRoy Louden; Vickie McDonald; and Adrian Smith. Senators absent: None.

SENATOR SCHROCK: Good afternoon and welcome to the proceedings. For the record, my name is Ed Schrock. I chair the Legislature's Natural Resources Committee and I'm from Holdrege, Nebraska. I will introduce the other members of the committee. To my far right is Senator Adrian Smith from Gering. Next to him is Senator LeRoy Louden from Ellsworth, then we have Senator Kopplin from Gretna, Senator Hudkins from Malcolm, and next to me is Jody Gittins, committee counsel. To my immediate left is Elaine Stuhr, Senator Stuhr from Bradshaw; she is the vice chair of the committee. Next to her is Senator Vickie McDonald from St. Paul, Nebraska, and then we have the esteemed Senator Bob Kremer from Aurora. And then, to my far left is Barb Koehlmoos; Barb is the committee clerk. If you have a cell phone with you, please make sure it is silent. If you wish to come to testify on a bill, please fill out one of the sheets that you'll see in the corner of the room. If you're going to testify on more than one bill, we would ask that you fill out one for each bill. If, for some reason or another, this is terribly inconvenient, you can always fill one out after you testify, but that's not preferable. But if you, for some reason or another, don't plan on testifying, and all of a sudden become motivated and jump up here and want to tell us something, you can fill it out afterwards, but don't leave. Spell your name for the transcribers. Our page today is Eric McCormick from Grant, Nebraska. He's a junior at UNL. Thank you, Eric, for being with us. If you have handout material, the page or the clerk can help you. If you do not want to testify, but want to submit written comments, that can be accommodated. If you have written testimony, please don't read it to us. Underline the high points and talk to us, tell us what you'd like us to know. We have five bills today, six bills, so

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we're kind of packing things in. This is kind of our natural resources day or NRD day, and so I don't think any of them should take over a half an hour, as long as we don't get too windy, so we don't have a light system up there to shut you off, but if you do take too long, I will stop you. So if you need a drink of water when you're testifying, why let the page know, and with that, we will start with the confirmation hearing for Don Kohtz (pronounced cots), am I saying that right?

DON KOHTZ: Kohtz (pronounced coats).

SENATOR SCHROCK: Kohtz (pronounced coats). Sorry, Don.

DON KOHTZ: That's fine.

CONFIRMATION HEARING ON
DON KOHTZ TO THE
POWER REVIEW BOARD

SENATOR SCHROCK: And Don, we would ask you to tell us something about yourself and why you want to serve on the Power Review Board. And I guess my first question is, is this a new appointment or a reappointment?

DON KOHTZ: It's a new appointment, sir.

SENATOR SCHROCK: Okay, well spell your name and then tell us why you'd like to serve.

DON KOHTZ: (Exhibit 1) My name is Don Kohtz, K-o-h-t-z. I was appointed by former Governor Johanns to be a member of the Nebraska Power Review Board to serve as the attorney position on the board from 2005 to 2009. I graduated from the University of Nebraska-Lincoln in 1988, been practicing law since then in the public and private sector, and believe that my experiences and knowledge would assist the Power Review Board in its duties and responsibilities regulating the electrical industry here in Nebraska. I ran unsuccessfully last year in the OPPD South Subdivision race and it sparked my interest in public power. The same reason I ran for that race, I submitted my name for the appointment to former Governor Johanns. I wanted to get more involved in my community and more involved in my state and it gave me

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a chance to give back to Nebraska. I was raised and educated in Nebraska.

SENATOR SCHROCK: Thank you. Are there questions for Don? Senator Stuhr.

SENATOR STUHR: Yes. Don, may I ask you who your parents are? Are they Don and Lorraine?

DON KOHTZ: That's correct, your honor, Senator.

SENATOR STUHR: All right. I went to school with your father, so very pleased to have you here.

DON KOHTZ: And I believe I probably competed against some Stuhrs from Bradshaw in our 4-H clubs.

SENATOR STUHR: Probably. (Laughter) Probably so. What do you see as one of your greatest responsibilities or duties as a board member?

DON KOHTZ: What I see as one of the greatest responsibility as a member of the Nebraska Power Review Board is to make sure that we have a consistent supply of electricity in Nebraska and our hope is, is to keep the rates affordable and low cost to Nebraska citizens. At the current time, Nebraska electrical rates are the ninth lowest in the nation. We want to stay in that range, if we can at all possible.

SENATOR STUHR: Okay. Thank you.

SENATOR SCHROCK: Other questions for Don? We aren't judges up here; you don't have to address her as your honor, but that's quite refreshing, by the way, so. (Laughter)

DON KOHTZ: Well, I used to be assistant attorney general. I used to do arguments in the Supreme Court in the same building, so it's kind of coming back to me, I guess.

SENATOR SCHROCK: Okay, well, it's nice that you're from York and have a connection with one of the senators, here, and so I don't have any questions. I like your resume and we thank you for appearing in front of us.

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DON KOHTZ: Okay. Thank you.

SENATOR SCHROCK: That will conclude the...well, that will not. Do we have people who would testify in a proponent capacity as far as the confirmation of Don Kohtz to the Power Review Board? Here we go. Did you fill out a piece of paper?

BOB TWISS: I did not, but...

SENATOR SCHROCK: Well, when you're through testifying, do so, and...

BOB TWISS: Senator Schrock, Mr. Chairman, I certainly will. And you sparked my interest. I didn't intend to testify, but Don used to live in Gretna and I know his family. He ran for the same seat that I ran in the southeast corner of the state with OPPD and I think Don would do an excellent job. He currently lives in Waverly and is also familiar with some other senators on the committee, so I'd be glad to answer any questions that...

SENATOR SCHROCK: How...

BOB TWISS: ...anyone may have.

SENATOR SCHROCK: How about stating and spelling your name for us?

BOB TWISS: I can do that. B-o-b, Bob Twiss, T-w-i-s-s.

SENATOR SCHROCK: Thank you, Bob. Are there questions for Bob? We appreciate you appearing before us.

BOB TWISS: Thank you, and I will fill out the sheet.

SENATOR SCHROCK: All right. Thank you. Is there anyone else who would like to appear in a proponent capacity? Is there opponents? This is the tough part, Don. (Laughter) Is there neutral testimony? If not, that will conclude the confirmation hearing on Don Kohtz for the Power Review Board. Thank you for being with us. And the first four bills and probably, the last bill, committee counsel will be opening the hearings. You may have to listen very intently because she has had a little voice problem.

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LB 31

LB 31

JODY GITTINS: Good afternoon, Senator Schrock, members of the committee, my name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I'm committee counsel for the Natural Resources Committee, introducing LB 31 on behalf of Senator Schrock. This bill was presented to Senator Schrock for the benefit of the natural resource districts. It was brought by the association. It allows the districts flexibility in determining whether or not a water well permit is necessary. Current law states that a permit is not necessary if the intended use of a well is for 90 days or less. This bill would allow natural resource districts to reduce that time period to 30 days or less if the districts themselves determined that it would result in a better management of their resources. Others will testify after me, I'm sure, as to the importance of this bill for their particular district.

SENATOR SCHROCK: Thank you. Are there questions for Jody? First proponent, please. Thank you, Bob, good to see you.

BOB TWISS: Good to see you. Thank you.

SENATOR SCHROCK: Go ahead, John.

JOHN MIYOSHI: (Exhibit 2) Go ahead. Chairman Schrock and members of the Natural Resources Committee, my name is John Miyoshi, general manager of the... pardon me, spelled M-i-y-o-s-h-i. I'm the general manager of the Lower Platte North Natural Resources District, located in Wahoo. Today, I'm testifying on behalf of our local district and for the Nebraska Association of Resources Districts in support of LB 31. Under current Nebraska law, a dewatering well which pumps for 90 days or less does not need to obtain a well permit from the local natural resources district. The same dewatering well, however, may pump as much water in a 90 day period as an irrigation well would pump during a summer without requiring a well permit. For example, a 250 gallon per minute dewatering well pumped for 90 days would yield approximately 32 million gallons of water. An irrigation well pumping 800 gallons per minute for 30 days over the summer would yield approximately 34 million gallons. If

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Nebraska's NRDs are to remain the stewards of groundwater, then we should be made aware, through the well permit process, when and where a dewatering well is to be used. To this end, the allowable time period for a dewatering well which pumps for 90 days or less should be reduced to 30 days or less when the district feels this is warranted. In times of drought, this permitting process would also allow the NRDs to look for potential beneficial reuses of this water, such as irrigation or as a credit to surface water users in potential integrated management areas. This legislation is permissive to each NRD to include as part of their groundwater management rules and regulations.

SENATOR SCHROCK: Thank you, John. Are there questions?
Senator Hudkins.

SENATOR HUDKINS: Mr. Miyoshi, would you define a dewatering well?

JOHN MIYOSHI: If you're doing construction in an area and the water table is high enough that you need to lower that water for your construction purposes, you put a dewatering well or a series of dewatering wells in to lower the water table. You complete your construction, remove your wells, cap your wells, and then the water table will come back.

SENATOR HUDKINS: Comes back up. And you want to reduce the time from 90 days to 30 days?

JOHN MIYOSHI: Yes. And again, it's permissive...

SENATOR HUDKINS: So if someone is needing to put in a dewatering well for the purposes that you described, is it usual that they're going to be pumping them for 90 days?

JOHN MIYOSHI: It depends on the project. It would be a very large project before they'd have to pump those for 90 days. That would be a long construction period.

SENATOR HUDKINS: All right. So if someone has a 30 day permit and if the project takes 35 days, are they going to have to have another permit?

JOHN MIYOSHI: Well, again, less than 30 days, you need no permit.

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SENATOR HUDKINS: All right.

JOHN MIYOSHI: And more than likely, the districts that would change their rules and regulations from 90 days to 30 days would be in the integrated management areas. Our district, at this time, does not plan to change our rules and regulations to 30 days, however January 1st, 2006, if Department of Natural Resources says our district is fully allocated, at that time I would guess our board probably would move to reduce that from 90 to 30 days.

SENATOR HUDKINS: May I continue?

SENATOR SCHROCK: Yes.

SENATOR HUDKINS: Are there any instances where you would not grant a permit such as this? I guess I don't understand...what's the worst thing that can happen if this doesn't pass? Or what are you trying to accomplish if it does?

JOHN MIYOSHI: Well, wasting the water is one thing. The other thing is if someone was intentionally circumventing the purpose of the permit. If they had an area of ground they wanted to put water on and had a dewatering permit and were doing that. The main thing is that we know that that's occurring in that area and there are the opportunities at times for the beneficial reuse of that water, rather than just sending it down a creek.

SENATOR HUDKINS: Thank you.

SENATOR SCHROCK: Senator Louden.

SENATOR LOUDEN: Thank you, John, for coming here today. How long does it take for you to issue a permit? I mean, if there's a construction project going on and all of a sudden they decided there they've dug down to where they have to start lowering the water level, how long would they have to wait to get this permit?

JOHN MIYOSHI: Normally, they'll know in most construction circumstances, however if, under normal circumstances, if a permit is in our office in the morning, quite often we have

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those cranked out before the end of business that day.

SENATOR LOUDEN: Even if it happened to be out in western Nebraska someplace?

JOHN MIYOSHI: Well, it's dependent on each NRD how they operate, but if our well permit person is there and available, we put a priorities on issuing those permits.

SENATOR LOUDEN: I guess my next question would be can they start construction after they start pumping and then it looks like they're going to run over 30 days, then can they apply for the permit?

JOHN MIYOSHI: Definitely, yes. Yes.

SENATOR LOUDEN: In other words, if they run into a problem with water coming into whatever their construction site was, they could go ahead and start pumping and then go ahead and apply the permit, and apply and get a permit without any...

JOHN MIYOSHI: Correct, as long as they haven't pumped over the 30 days, yeah, they would not be in violation.

SENATOR LOUDEN: Okay. And that's what I'm wondering if they could still go ahead and pump and have the option to renewing it. Now when they renew that, say they pump for 15 days, would they get the permit then for another 75 days or could get the permit from 90 days from the time they applied for it?

JOHN MIYOSHI: What would be normal on those permits, yes, is they'd say the number of days they'd plan to, but extensions are just pretty much automatic unless there's some item going on which...

SENATOR LOUDEN: Okay.

JOHN MIYOSHI: ...is not kosher.

SENATOR LOUDEN: In other words, they could...I was just wondering if there was any, be any penalty if they pumped for 29 days and then applied for a 90 day permit is what I was getting at.

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JOHN MIYOSHI: No. The permit, they could apply for the permit as long as they want. It's not limited...

SENATOR LOUDEN: They can keep...

JOHN MIYOSHI: ...to 90 days.

SENATOR LOUDEN: Okay. They can keep renewing them.

JOHN MIYOSHI: Yes. Yes.

SENATOR LOUDEN: Okay. Thank you.

JOHN MIYOSHI: And the...yes. The situation now is if they're going to pump longer than 90 days, they need the permit, right now.

SENATOR SCHROCK: Senator Kremer.

SENATOR KREMER: Hi, John, and thank you for coming. I guess I'm trying to get in my mind, too, really, the need for this. It would probably be in an area where the water table was very high that they had to put the water table down so they could get foundation in or something like that. Don't they usually dump that water relatively close then or do they ever eject it back in to the aquifer?

JOHN MIYOSHI: That's what we'd like to see happen, but normal is it's just a surface discharge.

SENATOR KREMER: But it would normally be in more of a sandy soil...

JOHN MIYOSHI: Well...

SENATOR KREMER: ...with the water table that close to the top or?

JOHN MIYOSHI: Quite often, that's the case unless you're in some type of perched system.

SENATOR KREMER: So would it not get back into aquifer pretty quickly then or not always, or?

JOHN MIYOSHI: Like I said, normally it's a surface

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discharge. It's...

SENATOR KREMER: Okay.

JOHN MIYOSHI: It's excess water.

SENATOR KREMER: And you feel like, even though the water table is that high that they have to pump it down, that it would deplete the water table or what's the...

JOHN MIYOSHI: Well again, if we get into an integrated management area, the rules kind of change and each drop of water becomes much more precious...

SENATOR KREMER: Okay.

JOHN MIYOSHI: ...in that case.

SENATOR KREMER: Okay. Thank you.

SENATOR SCHROCK: Other questions for John? Senator Smith.

SENATOR SMITH: I'm just trying to determine as a new guy around here, and I see where the statement of intent says wells; it doesn't say just dewatering. Now, I go to the bill and it mentions dewatering up higher. Do you see this as limited to only dewatering pumps?

JOHN MIYOSHI: Yes.

SENATOR SMITH: ...or wells? Okay. Okay, thank you.

SENATOR SCHROCK: Other questions? John, in my presumption, this is very commonly used for road and bridge construction. Is that the most common application?

JOHN MIYOSHI: Bridge construction very often...

SENATOR SCHROCK: All right.

JOHN MIYOSHI: ...yes.

SENATOR SCHROCK: All right.

JOHN MIYOSHI: And, lot of those times, they'll have trench

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walls in place to keep the water...

SENATOR SCHROCK: Okay.

JOHN MIYOSHI: ...from coming into that area.

SENATOR SCHROCK: All right. Thank you, John.

SENATOR KREMER: I have one more question.

SENATOR SCHROCK: Yes, Bob.

SENATOR KREMER: If you...

SENATOR SCHROCK: Senator Kremer.

SENATOR KREMER: That's okay. If you deny a dewatering well, would that hold up the construction on bridges and things like that or what does the...

JOHN MIYOSHI: Yes, it would, but you'd really need a good reason to deny a permit like that. We would have...there's very little latitude there with the statute for us to ever deny.

SENATOR KREMER: Okay, I..

JOHN MIYOSHI: That...

SENATOR KREMER: It's more of just a handle to find out what's happening to the water and where it's going just so you have more control over...

JOHN MIYOSHI: Yes.

SENATOR KREMER: ...what's happening in a...

JOHN MIYOSHI: And that there's not abuse, that a construction, you know, it's not a three year dewatering...

SENATOR KREMER: Um-hum.

JOHN MIYOSHI: ...permit for something that should take one year. And that...

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SENATOR KREMER: Okay. Thank you.

JOHN MIYOSHI: That it...

SENATOR SCHROCK: All right. Thank you, John. Next proponent, please. Is there opponent testimony?

LOREN TAYLOR: Mr. Chairman and members of the committee, I am Loren Taylor, L-o-r-e-n T-a-y-l-o-r. I was totally unaware this bill was going to be heard. The company I represent is Sargent Irrigation Company and listened to the testimony and the questions and I don't have one of these sheets filled out because I wasn't figuring on testifying, but I will get one filled out for you. Being a past member of the Well Drillers Licensing Board, I know what the rules are as far as the 90 days and so forth. And just the immediate reaction that hit me is, we do a lot of this kind of work and a lot of this kind of work is very, very unpredictable, being a pipeline that's being put in in the Platte River somewhere or a bridge or something like that. I see it's a place that we could possibly get some contractors in problems thinking that the contractor would contract us for a 30-day period and, you know, time gets away pretty quick. So you go to Elm Creek, if you will, and you put in some casings and go on about your business and they don't get back the contractor, general contractor, bridge contractor don't get back to you and say, whoo, we got a problem here. We got to do something about this because we're not standing there. We are the dewatering contractors and the bridge contractors and, of course, it's our license that's on the line if we didn't follow up on that. So, I am really unprepared, but I see some problems that could hit us real fast here. This 30-day period is pretty short on, especially in the summertime if you get some weather conditions or some shortages of material or something like that. I don't want to see our license be in jeopardy on this.

SENATOR SCHROCK: Questions for Loren? Senator McDonald.

SENATOR McDONALD: Do you think that 45 would be a compromise?

LOREN TAYLOR: Senator, I'm just...this has hit me real quick because I was unaware of this bill and I should be.

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LB 31

That's my fault, but it's something that, you know, 30 days from the first of June to the last of June when you're off working other areas because you are not, we are not the general contractor on that, see, and so this is a paper trail or something that we've got to stay on top of. We've got to call back to the general contractor and say, are we done, or where are we at, or we got a problem here, we got to get permits on these, what are we...you know what I'm talking about. It's something that could give us some problems. And I haven't thought it through very far, to be honest with you, I haven't, but I just, it hit me that we'd have a possible problem.

SENATOR SCHROCK: Senator Hudkins.

SENATOR HUDKINS: Mr. Taylor, on first blush, are you supporting in opposition to the bill?

LOREN TAYLOR: I guess at this point in time, I am opposing it right now, yes, because I just am not sure exactly what we would do in some of these cases.

SENATOR HUDKINS: Okay. The 90 days, I asked the previous testifier, what's the worst thing that can happen if we go from 90 days to 30 days? I'm still not quite sure I understand the need, and I heard them say it prevents the wasting of water, but there's also a permit required. And if you go from 90 days to 30 days, aren't there going to be a lot more permits and more \$50 fees?

LOREN TAYLOR: Oh, there's going to be a lot of them.

SENATOR HUDKINS: Yeah.

LOREN TAYLOR: If you've got, if this would go through, what I've heard see, I haven't read the bill, I haven't seen it. Then to cover our tracks, we would probably on a big end of them, we would go to get a permit because we don't know because 30 days on a lot of...if it's a pipeline job where they're moving the pipeline along, daily they're moving it, that's one thing. If it's a bridge or a building or something like that, they say they're going to be done in 30 days, we probably wouldn't take the chance. We'd probably just go ahead and get a permit.

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LB 31, 32

SENATOR HUDKINS: Yeah. Well, I have yet to see a bridge built in less than 90 days.

LOREN TAYLOR: No. You don't see them. A lot of those have to be registered wells and then decommissioned...

SENATOR HUDKINS: Yeah, okay.

LOREN TAYLOR: ...because they take a year...

SENATOR HUDKINS: Right. Thank you.

LOREN TAYLOR: But some box culverts and stuff...

SENATOR HUDKINS: Yeah.

LOREN TAYLOR: ...like that, see, are 30-day or less, unless you get into a weather problem.

SENATOR SCHROCK: Other questions? Loren, you apparently have done quite a few of these dewatering wells?

LOREN TAYLOR: Yeah, we do a lot of them.

SENATOR SCHROCK: Have you ever been denied a permit?

LOREN TAYLOR: Not to my knowledge.

SENATOR SCHROCK: Okay. All right. Thank you. Is there other opponent testimony? Is there neutral testimony? If not, we will close the hearing on LB 31 and move to LB 32. You may proceed.

LB 32

JODY GITTINS: Okay. Good afternoon, Chairman Schrock, members of the committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I'm committee counsel for the Natural Resources Committee and introducing LB 32 on behalf of Senator Schrock. This bill was also presented to Schrock by the Association of Resource Districts. The purpose of the bill is to raise the annual per diem allowed to board of directors from \$2,800 to \$3,600 per year. It doesn't increase the daily amount that they can give, but in areas

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where we've had fully appropriated districts and over appropriated districts, and with the implementation of LB 962, a number of districts are having to hold, directors are having to meet more often to deal with developing their groundwater management plans and some of these have already bumped up against that threshold level of the \$2,800 that exists in current statute. So this is just saying that the maximum amount that they could be paid would be \$3,600.

SENATOR SCHROCK: Thank you. Questions for Jody?

SENATOR HUDKINS: Jody, do you know when the last time these per diems were changed?

JODY GITTINS: I think it was 1994, but I'm not sure.

SENATOR SCHROCK: Other questions?

SENATOR STUHR: I have one.

SENATOR SCHROCK: Senator Stuhr.

SENATOR STUHR: Oh, these are per diems paid by the natural resource districts to their board...

JODY GITTINS: Yes, that's correct.

SENATOR STUHR: Okay.

JODY GITTINS: To their board members. They would have to vote on it anyway.

SENATOR STUHR: Okay. Thank you.

JODY GITTINS: But it will allow them to do that.

SENATOR SCHROCK: Let's see, if they're \$70 per day x 40, they'd have to be 51 days before they would bump up against the \$3,600.

JODY GITTINS: That's correct.

SENATOR SCHROCK: All right. Thank you. We have proponent testimony?

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LB 32

JOHN MASER: My name is John Maser. I am currently the chair of the North Platte Natural Resource Districts.

SENATOR SCHROCK: Would you spell that for us?

JOHN MASER: J-o-h-n M-a-s-e-r.

SENATOR SCHROCK: Thank you, John.

JOHN MASER: (Exhibit 3) I'm here to testify on behalf of LB 32. Mr. Chairman and members of the committee, the North Platte Natural Resource District is comprised of Banner, Garden, Morrill, and Scotts Bluff and southern Sioux Counties. It's a large geographic area and our office is in Gering, Nebraska. I want to thank you for the opportunity to testify in support of LB 32. This bill was introduced in the Unicameral as a result of a resolution proposed by the North Platte NRD and approved by the Nebraska Association of Resources Districts in favor of raising the statute to raise the annual limit on a per diem for the NRD director to \$3,600 per calendar year. The duties and the responsibilities of natural resource districts have increased in recent years due to numerous factors including new legislation, new federal, state, and local programs, increased concerns over Nebraska's resources and variable local issues. In the North Platte NRD, the directors have spent many hours over the past several years debating and deliberating how they are to carry out the NRDs' duties under the Groundwater Management and Protection Act in relation to two crucial issues: declining water levels in the Pumpkin Creek Basin and developing an integrated management plan for the entire NRD, as required by LB 962. In connection with these two issues, the NRD directors have attended several dozen meetings in the past several years in addition to monthly board meetings. These include subcommittee meetings, advisory committee meetings, stakeholder meetings, and basin-wide meetings with directors of the other NRDs. The board members suffer financial hardship if they are not fairly compensated for time spent away from their farms, businesses, or places of employment on Natural Resource District business. The prospect of a financial hardship will discourage dedicated and qualified citizens from serving on natural district directors' boards. With the issues facing our state, Nebraska, in our opinion, needs dedicated individuals to

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serve on NRD boards now more than ever. We urge you to send the bill to the floor for the Legislature for consideration. Thank you, Mr. Chairman and committee members for the chance to testify on this bill. I'd be glad to answer any questions that you may have.

SENATOR SCHROCK: Thank you, John. Questions for John?
Senator Louden.

SENATOR LOUDEN: Yeah, John, welcome to our little session here today. We enjoyed yours last night. Do you get paid mileage and...

JOHN MASER: Yes, yes we do.

SENATOR LOUDEN: ...when you're away?

JOHN MASER: We do, from our home to the districts, wherever the meeting is.

SENATOR LOUDEN: Okay. Do you get paid lodging or anything like that when you have to go to meetings?

JOHN MASER: The district picks that up, yes.

SENATOR LOUDEN: Okay. This is a per day...

JOHN MASER: This is basically per diem that we're requesting.

SENATOR LOUDEN: Yeah. Okay, thank you.

SENATOR SCHROCK: Senator Hudkins.

SENATOR HUDKINS: The mileage that is paid, is that over and above the per diem?

JOHN MASER: Yes, it is.

SENATOR HUDKINS: Okay. Thank you.

SENATOR SCHROCK: Senator Smith.

SENATOR SMITH: You get per diem for driving down here in addition to mileage?

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JOHN MASER: Yes.

SENATOR SMITH: For a day spent on the road?

JOHN MASER: Yes.

SENATOR SMITH: Good. Thank you.

JOHN MASER: Like it's 380 mile drive from...like, we came to this meeting. And I'm hoping we are compensated when we get home. (Laughter)

SENATOR SMITH: I'm glad it's that way, by the way.

SENATOR SCHROCK: Did you carpool to save the state some money?

JOHN MASER: Yes. Yes, we do. (Laughter) Our manager usually brings us down with a van, so we know the...I do need to add that on. We'll come four or five or six members at a time. We do not each individually bring our cars down here and get recompensated for mileage. That's just the consciousness of the directors in trying to save money; that's one thing that we do do.

SENATOR SCHROCK: Senator Stuhr.

SENATOR STUHR: How long have you served as a director?

JOHN MASER: Four years.

SENATOR STUHR: Four years. In those four years, have you seen the number of meetings increase?

JOHN MASER: Definitely. I like to think...I don't like to think about it, but when I got on the board everything started falling apart in the water issues in our area and our previous chairman was the one that we would talk about this a number of times about how in October, it's mainly the chairman, one or two, not all members will bump up against this number, I want to make that very clear too. But, as chairmen, and it was he always there in October or November, I don't know exactly, October or November, he was out of per diem. He basically was working for nothing. He got his

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mileage, but he did not get paid for his time away from his farm and ranch. And for what it's maybe worth, I'll throw this in also, he was a good chairman, he was with us for eight years and he had the opportunity to become a county commissioner and he did take that position. He said, basically he said, John, I can't afford to...I can't divide my time among the two, he said, but I'll tell you one thing, he said, he was 100 miles from our office in Gering, which was really a detriment to him, and he got his mileage paid, but don't get me wrong. But he spent a lot of time on the road attending to business. And that's...to restate that, he was out of per diem many times in the past eight years. He worked for free.

SENATOR SCHROCK: Other questions? John, when they have a constitutional amendment to increase senators' salaries, will you come down and testify because I like your arguments?

JOHN MASER: I'll definitely do that. (Laughter) I think I told one of you fellows that last night.

SENATOR SCHROCK: All right.

JOHN MASER: I think it was Senator Smith. I do think you're underpaid.

SENATOR SCHROCK: We appreciate you being with us.

JOHN MASER: Thank you for the opportunity.

SENATOR SCHROCK: Is there other proponent testimony?

RON WOLF: Chairman Schrock and members of the committee, my name is Ron Wolf, R-o-n W-o-l-f. I am here as a...I feel kind of odd...I'm here as a member of the general public and I can't remember the last time I supported a bill that might increase my taxes, but I do support this one. It's tough in these rural areas to get board members for almost any kind of a board and in some of these water problem areas, I think they're going to find it tougher all the time to find competent people that are willing to give up the time it's going to take to do this. The other thing, these people are dealing with some questions that probably don't have an answer. It's going to take more meetings and more work. I

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think the further we go, 70 bucks a day, that may be fair, but a lot of these people do work out. They're giving up wages. If they're on the farm, I know it wouldn't work for me because I could attend ten meetings and lose one calf and I didn't even break even. So there's some other expenses maybe that don't show on the books that go along with serving on these boards. You're looking at 51 meetings a year. It only makes sense, if they're doing their job and it's needed to attend that. And I think all of you recognize that I don't care if a board is three people or 25 people, certain issues you tend to find the same five or six covering most of the work, if that's not a...I don't want to give an incorrect impression, but you'll find that on certain issues, the committee members, they spend a lot more time than the rest of the board even realizes. So I would encourage you to pass this bill. I think it's a good bill. I would answer any questions if...I'll try to answer any questions.

SENATOR SCHROCK: Thank you, Ron. Senator McDonald.

SENATOR McDONALD: Yeah. It's good to see you here today, and...

RON WOLF: Thank you, Senator.

SENATOR McDONALD: ...appreciate your testimony. How about \$75 a day? Would you put a higher limit on that then \$70?

RON WOLF: I tell you, for these board members, I would. That wouldn't bother me a bit. I look at my tax bill; we're looking what 80, 90 percent for schools? NRDs, rural fire district, my hospital district, the county, they're living on so few pennies, it wouldn't hurt me a bit. I'd say yes, I'd support that.

SENATOR McDONALD: Appreciate that.

SENATOR SCHROCK: Other questions? Thank you, Ron.

RON WOLF: Thanks.

SENATOR SCHROCK: Appreciate you being with us. Other proponents? Do we have opponents? Is there neutral testimony? If not, that will close the hearing on

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LB 32, and we will go to LB 137.

LB 137

JODY GITTINS: Good afternoon, Chairman Schrock, members of the committee, my name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I'm committee counsel for the Natural Resources Committee and introducing LB 137 on behalf of Senator Schrock. This bill is going to be requested by Senator Schrock that you indefinitely postpone it and there will be no testimony on this bill today, the reason being that LB 508 is its replacement. In the drafting and introduction of bills, it was realized that a portion of LB 137 was omitted, and it's a significant portion of the bill. And rather than simply do an amendment to LB 137, which wouldn't allow public comment, Senator Schrock decided that it would be more prudent and a fairer result if we simply reintroduced LB 137 as it was supposed to be written as LB 508. That concludes my opening remarks on LB 137.

SENATOR SCHROCK: All right. Thank you. Are there questions? Senator Louden.

SENATOR LOUDEN: Thanks for the explanation. I couldn't figure out what was going on when I read the package.

SENATOR SCHROCK: Do I need to open this up for proponent and opponent testimony? Is there people who would testify in a proponent capacity? If you didn't hear her, she said this bill is inadequate and we're going to indefinitely postpone this, try to anyway. Is there opponent testimony? Is there neutral testimony? That will conclude the hearing on LB 137, and we will open up on LB 508.

LB 508

JODY GITTINS: Senator Schrock, members of the committee, my name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I am introducing LB 508 on behalf of Senator Schrock. This is another bill that was presented to Senator Schrock by the Association of Resource Districts. This bill provides that any district which has a cost-share program under the Water Well Decommissioning Act for three or more years can have an

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allocation based on the three year average. Currently, they're based on a single year average, which can fluctuate considerably. And so, the purpose of this is to kind of equal things out over a period of three years. It also increases the maximum amount of cost-share from \$300 to \$500 for decommissioning wells, which is the 60 percent, which comes more closely to reaching the 60 percent allowed by law. The part that was omitted is the following: it allows local natural resource districts to establish a maximum cost-share assistance amounts that are based on well depths and diameters to ensure that landowners will be compensated for at least 60 percent of the cost of the well decommissioning. This seems to be a fairer way to do business based on the amount that it's going to cost to decommission the wells. That last portion was the part that was omitted from LB 137, and again, because it was a significant change, Senator Schrock believed that it should have been incorporated and that's why you have LB 508 before you.

SENATOR SCHROCK: Questions? We will move to proponent testimony.

JOHN THORBURN: (Exhibit 4) Good afternoon, Mr. Chairman, senators. I am John Thorburn, J-o-h-n T-h-o-r-b-u-r-n. I'm the general manager of Tri-Basin Natural Resources District in Holdrege, and I'm testifying in support of LB 508 on behalf of the Nebraska Association of Resources Districts. Unused water wells are a hazard. They are dangerous because people, particularly children, could be killed or injured falling into abandoned wells. They're also a hazard to our groundwater supply because every abandoned well is a pipe that can send contaminants directly into our groundwater aquifer. The Nebraska water well decommissioning program has been very successful in reducing this threat to Nebraskans. This cost-share program is funded by a combination of state fees on well registrations and local NRD property tax funds. This program has helped pay the cost of having licensed well drillers properly decommission more than 1,000 abandoned wells every year. The water well decommissioning program is successful and effective, but it is due for an update. The program is intended to pay for 60 percent of the cost of decommissioning wells, but cost-share assistance is capped in statute at \$300 per well. This cap has not been adjusted since the program was created

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in the 1980s. Since then, in addition to the inevitable increases in labor and material costs, well decommissioning standards have also been made more stringent. The result is that the program only pays about 40 percent of the actual cost of decommissioning deep, large diameter, irrigation wells. On the other hand, since the authorizing legislation doesn't allow NRDs to distinguish between wells of different sizes and depths, landowners can get reimbursed for the maximum cost-share amount, regardless whether they destroy a sand point windmill well or an irrigation well. Both of these problems are resolved by the provisions of LB 508. Another problem with the authorizing legislation is that it requires the Department of Natural Resources to distribute state funds based on the number of wells decommissioned by an NRD during the previous fiscal year. As your legal counsel noted, it would be better to use an average, a three year average of decommissioning as a way to distribute the funds in a way that takes account of fluctuations in well decommissioning activity over a period of years. I thank you for your attention to my testimony and I urge you to advance LB 508.

SENATOR SCHROCK: Thank you, John. Are there questions? We have some written testimony? Are there questions? John, go through the process of how you decommission a well. The farmer has a well he wants capped, plugged, whatever you want to call it, and...

JOHN THORBURN: Well, typically, he would contact the well driller and oftentimes a well driller will fill out the paperwork associated with getting the cost-share funds. The well is then filled with gravel bentonite, which is a real sticky expanding type of clay that helps seal the well, and a concrete cap, and that ensures that contaminants cannot go down that conduit to the aquifer.

SENATOR SCHROCK: And they turn the paperwork in to you and...

JOHN THORBURN: Yeah, and then the well driller completes the paperwork indicating what was done, what the material costs were and so forth, submits it to the NRD. We approve it and pay out; the state reimburses us for that.

SENATOR SCHROCK: Now, let's say my irrigation well goes bad

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and I have to drill a new one.

JOHN THORBURN: Um-hum.

SENATOR SCHROCK: The old well has to be capped?

JOHN THORBURN: If you're going to have the new one be a replacement well for the original well, yes, Senator.

SENATOR SCHROCK: And do you pay for that capping when a replacement well is drilled?

JOHN THORBURN: Yes, Senator, we do.

SENATOR SCHROCK: Okay. I mean we've done that several times. I guess I don't recall whether we've gotten cost-share on the capping or not. Shows you how much...

JOHN THORBURN: Well, you certainly would be eligible.

SENATOR SCHROCK: Shows you how much I pay attention to what's going on there.

JOHN THORBURN: Typically, the well driller is aware of the program...

SENATOR SCHROCK: And they do it...

JOHN THORBURN: ...and will take care of that for you.

SENATOR SCHROCK: It's kind of an automatic deal, okay. That's probably what happened because my son has been dealing with most of that, so.

JOHN THORBURN: Yeah.

SENATOR SCHROCK: Any other questions? Just a little aside now, the committee might find it interesting that John has a set of twins at home.

JOHN THORBURN: Yes, I do.

SENATOR SCHROCK: They're not...a boy and a girl...not...

JOHN THORBURN: A boy and a girl, yeah.

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SENATOR SCHROCK: About 7?

JOHN THORBURN: They're, you're very close, they're 6, yes...

SENATOR SCHROCK: All right.

JOHN THORBURN: In kindergarten there in Holdrege.

SENATOR SCHROCK: All right. Thank you, John.

JOHN THORBURN: Thank you, Senator.

SENATOR SCHROCK: Makes life interesting, doesn't it?

JOHN THORBURN: Yes, sir.

SENATOR SCHROCK: All right. Next proponent, please. Is there opponent testimony?

JODY GITTINS: The State Irrigation Association is a proponent.

SENATOR SCHROCK: (Exhibit 5) Okay, we have a proponent letter here from the State Irrigation Association signed by Lee Orton. Thank you, Lee. Opponent testimony? Neutral testimony? If not, that will close the hearing on LB 508, and we will move to LB 359. Senator Kremer.

LB 359

SENATOR KREMER: Thank you, Senator Schrock. For the record, my name is Bob Kremer, spelled B-o-b K-r-e-m-e-r. I represent District 34. LB 359 changes the engineering requirement of the director of Natural Resources and adds other criteria. Existing statutory requirements remain, including that the director be qualified by training and business experience to manage and supervise the Department of Natural Resources. Current law requires the director of Natural Resources to be a professional engineer, but not specific on the type of engineer. LB 359 maintains an engineering requirement, but it allows either the director or deputy director or the director of Water Administration

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Division to be the professional engineer. So that's really the crux of the bill is that it requires that engineering degree, but does not require it of the director, but it could be the deputy director. LB 359 also adds criteria that the director has at least five years experience in a position of responsibility in the field of water management, policy, conservation, development, or use. Since the department was created with the merger of the former Nebraska Department of Water Resources and the Nebraska Natural Resource Commission in 2001, the duties have changed. The former Department of Water Resources administered and adjudicated surface water rights. The former Nebraska Natural Resources Commission was an agency established to serve as the official agency for the state of soil and water conservation, watershed protection, water resources development, flood prevention and control, and statewide resources planning. The role has become more toward facilitating and mediating disputes over water and resource management in use and less toward adjudicating water rights. The change proposed in LB 359 should open the field to qualified candidates for the position, should the position come open. We looked back at the qualifications on several of the other directors within the state and it was interesting how the qualifications were much, much less than what the Department of Natural Resource is. For instance, the DEQ director, it says it shall be appointed director of Environmental Quality shall be experienced in air, water, and land pollution control, and who may be otherwise an employee of state government. The DMV says the director of Motor Vehicles at this time is, is appointment and qualifications shall be, shall be a citizen of the United States, a resident of the state of Nebraska, and have a qualified voter in the state for a period of at least five years preceding the appointment. HHS says the Department of Health and Human Services shall have a recognized and demonstrate experience in and the knowledge of the issues of the Health and Human Services delivery and administration experience in an executive capacity. Most of these do not have real stringent qualifications. And when we come to the director of Natural Resources said he has to have a degree in engineering. So we thought it was appropriate, should that position ever be open, that thought it would be helpful and that there would be a lot more candidates that we could draw from if the qualifications didn't have this engineering degree. And like I said, it does maintain the engineering

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requirement, but that can be filled as the director, the deputy director, or the director of the Water Administration division. So it does not have to be the director of Natural Resources. With that, I'll answer any questions.

SENATOR SCHROCK: Thank you, Senator Kremer. Questions? Senator Louden.

SENATOR LOUDEN: Yeah, Senator Kremer. I'm wondering, on page 2 on that, when it says, the director then it says deputy director or director of, does that mean...that certainly doesn't mean all three of those people have to be?

SENATOR KREMER: No. Any one.

SENATOR LOUDEN: You think that language is clear enough?

SENATOR KREMER: Oh, I don't know.

SENATOR LOUDEN: Yeah, that's, and one other, when you mentioned some of them have to be citizens of the United States, is there anything, I guess, nothing in here in the director of Natural Resources says he has to be a citizen. Is that, am I correct on that?

SENATOR KREMER: Unless it's somewhere else in the statute, I don't know, so you're correct.

SENATOR LOUDEN: Um-hum.

SENATOR KREMER: It doesn't have to be all three because it says, the director, deputy director, or it's just specified in one of those three.

SENATOR LOUDEN: Um-hum. Okay. Thank you.

SENATOR SCHROCK: Other questions? Senator McDonald.

SENATOR McDONALD: When was the position taken that's current now? How long has that person been in...

SENATOR KREMER: I cannot answer that. I'm sure that...or...

SENATOR SCHROCK: I can answer that.

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SENATOR KREMER: ...that the counsel can or...

SENATOR McDONALD: Oh.

SENATOR SCHROCK: Roger Patterson has been there since he was appointed by Johanns.

SENATOR KREMER: Oh, yeah, you mean the present director, when did he take...yeah...

SENATOR SCHROCK: He was appointed by the governor, what...

SENATOR KREMER: It would have been a...

SENATOR SCHROCK: A couple months after the...

SENATOR KREMER: About...

SENATOR SCHROCK: ...Johanns was sworn in, I would say.

SENATOR KREMER: 2001 is where we combined the two departments and it was shortly after that, so it would have been around 2001 or 2.

SENATOR McDONALD: So and you don't know the pool of people that were there at that point in time?

SENATOR KREMER: No, I don't.

SENATOR McDONALD: So we don't really know if it needs to be broadened because we don't know how many people were there before.

SENATOR KREMER: Well, that's true, but I guess it's better to be proactive than to wait and be reactive if you don't have any...a pool then to try to come back with a law change to relax that somewhat, so I think it's appropriate as long as we have an engineer in the department somewhere.

SENATOR SCHROCK: Other questions? Bob, are you thinking of applying for this position after you retire from the Legislature? Is that what's going on here?

SENATOR KREMER: No, I'm not. I'm not an engineer or a lot

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of the other qualifications either. I am a citizen of the United States, though. (Laughter)

SENATOR SCHROCK: I was just wondering if you were trying to sneak one over on us here.

SENATOR KREMER: No.

SENATOR SCHROCK: All right.

SENATOR KREMER: I was thinking more that for you, Ed.

SENATOR SCHROCK: All right.

SENATOR KREMER: Mr. Senator Schrock, excuse me.

SENATOR SCHROCK: Yeah. Probably not much danger in either case. Proponent testimony, please.

RON BISHOP: (Exhibit 6) Mr. Chairman, members of the committee, my name is Ron Bishop, B-i-s-h-o-p, and I'm general manager for the Central Platte Natural Resource District located out at Grand Island. I'm here today in support of LB 359 on behalf of our natural resource district and on behalf of the Nebraska Association of Resource Districts. As Senator Kremer pointed out, the current position that requires that position to be filled by a licensed professional engineer is really a combination of two former positions, the Department of Water Resources and the Natural Resources Commission. Each of those former positions that got merged had their own requirements. Water Resources required that he be a licensed engineer. The Natural Resource Commission required that he be well-versed and experienced in things like soil and water conservation and planning, and those types of activities. When they got merged, just one of the requirements was carried over and not the other one and so we strongly support changing that requirement and opening it up a little bit, so that it could be a person like Dayle Williamson, that was formerly the director of the Natural Resource Commission or some of those types of people who have experience in some of the requirements that are now incorporated in the Department of Natural Resources. The duties and responsibilities of the director of that new department have greatly expanded and taken on new tasks and new responsibilities in things like

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planning, that was formerly the responsibility of the Department of Natural Resources Commission. There's also a broadened and expanded responsibility in negotiations and in working with not only the irrigation district, surface water irrigation districts across the state, but the natural resource districts in planning and water management. If one were to develop a qualification requirement that would cover the responsibilities of the director of Natural Resources, you'd require a degree in Water Resource Management because that's his responsibilities now, a degree in Soil Conservation, a degree in Natural Resource Planning, a degree in Economics, a degree in Water Law, a degree in Personnel Management, and a degree in Ag or Civil Engineering. It's just not very practical to require one individual to have those kinds of credentials. First of all, he'd be ready to retire by the time he got out of school. So it makes a lot more sense to broaden it out and require that he have one or more of those combinations and let him hire, then, the people that fill in those other responsibilities. He may well be an engineer with experience in water resources and he has staff, then, that cover the soil conservation responsibilities, cover the planning responsibilities, cover the water law responsibilities and the other responsibilities that he has. But it could just as easily be someone with a Water Resources Management degree and he would have an engineer on staff, as well as the other requirements. The new proposed change in the law doesn't say that it can't be an engineer. It does say that it can be some other things as well. As far as hiring an engineer, that's what we currently have. Roger is an engineer, he has a staff with expertise in those other fields and he's doing a great job. I'd like to be able to keep him forever, but I don't think he's going to sign a lifetime contract, and the time will come when Roger is not here anymore. And then we'll have to go through a search, and I think when we go through that search, it makes a lot of sense to open it up a little bit to some of the other fields of responsibility that the director has. And it may be a water resource manager, it may be an attorney experienced in water law. I just think Nebraska would be better served by opening that up. In closing, I'd like to point out another major shortcoming of the current law. It says he must be a professional engineer. Well, professional engineer applies to a whole host of different fields in the engineering profession. You can be licensed as a

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professional engineer in the following fields: agriculture, architecture, chemical, civil, control systems, electrical, computer, environmental, and on and on. That's less than half of them that you can be licensed in Nebraska. The current law on directors' qualifications doesn't distinguish between the fields, only that he has to be a professional engineer with five years experience in a position of responsibility in irrigation works. So the way we have it set up now under the current law, a professional electrical engineer that had operated the family's irrigated farm before going off to college would meet the qualification requirement. But Jim Cook, who is the department's attorney and has been for most all his working life, he's worked in the field almost as long as I've been around, he wouldn't qualify. A mechanical engineer who worked in design for a center pivot firm designing center pivots for five years would qualify, but Dave Cookson, who has the natural resources section of the Attorney General's office, has extensive experience, would not qualify. And a chemical engineer who sat on a board for the local irrigation district for five years would qualify, but Dennis Strauch, who's managed Nebraska's Pathfinder Irrigation District out in the Panhandle with distinction, and he wouldn't qualify. So I think that it's not very logical the way we've got it set up and it's not very prudent under current requirements of that director, and I think it should be changed now while we have time and before we have a problem and have to go out on that search that eventually we'll come to. I thank you for giving me the opportunity to appear before you and I'd be glad to answer any questions you might have.

SENATOR SCHROCK: Questions for Ron? Well, the fact that Dave Cookson wouldn't qualify might be a good thing, you know, you never know. I see him in the back of the room, so I can say that.

RON BISHOP: I saw Dave in the back of the room there.

SENATOR SCHROCK: Ron, do you remember...I only remember the one vacancy when Mike Jess was relieved of his duties...

RON BISHOP: Yes.

SENATOR SCHROCK: And you probably remember more than that. You maybe remember when Mike came on, I don't know. Were

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the pool of candidates pretty limited?

RON BISHOP: I do know that when Mike left, the pool of candidates was very limited. It was limited, there was about two that they were only considering, and they had to pull Roger out of California and had to talk quite a while and had to make some adjustments to get Roger back.

SENATOR SCHROCK: Had to make some salary adjustments for that position, I remember that.

RON BISHOP: Yes, a major salary adjustment. So it was a very limited pool.

SENATOR SCHROCK: And if we don't change, you think that could be the case next time.

RON BISHOP: Absolutely. Except there's not another Roger Patterson out there, would be my concern. He's pretty much one of a kind.

SENATOR SCHROCK: All right. Other questions for Ron? Thank you.

RON BISHOP: You bet.

SENATOR SCHROCK: Is there additional proponent testimony? Do we have opponent testimony?

JODY GITTINS: Professional Engineers (inaudible).

SENATOR SCHROCK: Yeah. I've got it. I've got it. We'll wait. We've got an opponent here.

JODY GITTINS: These are opponents.

SENATOR SCHROCK: Yeah.

MICHAEL A. DRAIN: Good afternoon.

SENATOR SCHROCK: Good afternoon, Mike.

MICHAEL A. DRAIN: Senator Schrock, members of the committee, my name is Michael Drain, spelled M-i-c-h-a-e-l D-r-a-i-n. I am here today just as an individual citizen to

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testify in opposition to LB 359, and I have to make three quick apologies. First, I have no tie, by virtue of the fact that I have a two-year-old son and had an incident with him over breakfast this morning that led to its destruction; the second is that I apologize if I sound a little shaky, notwithstanding the fact that my job requires me to talk to people from time to time, I'm never comfortable doing so. And the third is also because of my children at home, I didn't have time to prepare written testimony. All I have is an outline that I'm going to be trying to speak from, so I apologize. I am in opposition to LB 359, specifically, because of the removal of the requirement that the director be a professional engineer in the state of Nebraska. I am familiar with both the requirements of professional engineering because I am, myself, a professional engineer, and I am familiar with the requirements of the director because my job keeps me very involved with issues before the Department of Natural Resources. The reasons that the director should be a professional engineer are because the position is still, does remain, first and foremost, one of a very technical nature, and secondly, because having the requirement as a professional engineer for the director imposes a, what I believe is a very important check on the system that would not otherwise exist. I will also try to refute a couple of arguments that I have heard in favor of this testimony in the past, those being that it is adequate to have a professional engineer in another staffing position at the department, and also that by limiting this requirement we will somehow make the filling of this position in the future easier on the state of Nebraska. On the issue of this being a technical position, I do agree the director also has to be well versed in a number of other areas: economics and policy and personnel and any number of other items that you may have. But the director is the one who must, ultimately, reach the findings of facts that are the responsibility of the director. These are facts of a very scientific nature. It is not the assistant to the director that reaches the ultimate conclusions. It is true that the previous position of the Natural Resources Commission's head did not have to be a professional engineer, but at the time that we had the two different departments, there was not also the issues that we have today imposed by LB 962, the greater interest we have in integrated management, and those types of things. In fact, the position of the director of the Department of Natural

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Resources has a common term, a lay term. We refer to that person as the state engineer. That alone should be quite an indication to how important it is that this person be an engineer and this person is the one that is responsible for dealing with the state engineers of the other states around Nebraska. When someone is a professional engineer, they are required by statute to be under the control of the Board of Engineers and Architects in the state of Nebraska, the Engineers and Architects Regulation Act, including the Code of Practice for Engineers. This code of practice and these statutes set out guidelines that the engineer must follow for competence, conflict of interest, full disclosure, and professional conduct. This means that, for example, an electrical engineer is not permitted by the code of practice to practice as a civil engineer or as a hydraulic engineer. It means that an engineer, through the code of practice, must disclose when they are making a decision for political purposes, as opposed to for scientific purposes. This is a very important check on the system. What this means is that no matter what the political interests, no matter what the pressures upon the director, when the director is actually faced with making a decision of technical fact, the director must make that decision in accordance with the code of conduct for engineers. And even if there is only one other person in the state who feels in opposition to that person, if it is for a reason that is not technically correct, there is a process by which any citizen could take the professional engineer, director of the Department of Natural Resources, before the Board of Engineers and raise a case that the director has acted inappropriately, not in accordance with the code of conduct. Now, odds on this, I will agree, are very small. I am not aware of this ever having occurred, but primarily, I suppose, that's because we've had engineers in this position until now. But it does eliminate the, well, I shouldn't say eliminate, it reduces the potential that someone will make, as a director, a decision that is politically expedient, but technically incorrect because they can be brought before the Board of Engineers and Architects and be censured or even have their license revoked. I would like to address two of the arguments I've heard in favor of this type of legislation before, both last year and this year. One is that it is adequate to have, perhaps, the deputy director or another member of the director's staff as a professional engineer. This is not adequate for one specific purpose and that is,

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none of those other members of the staff are the ones that make the decision. They are not the ones granted the authority to issue that order, thus your check that I mentioned earlier goes away. Every other member of the staff can be an engineer, and be in agreement on what the proper technical decision is, but the director for other reasons can make a different decision and there is no check on the system because there's no way to take that person before the board for a bad engineering decision. I also disagree with the idea that eliminating this requirement will make the filling of this post easier. I would agree that it'll increase the number of candidates. To that matter, you know, we could just eliminate requirements altogether. But if you eliminate the requirement that there be a professional engineer in this position, it will greatly increase, I believe, the perception that groups will have that they can fill this position to their own self interest. There will be much greater pressures on the governor, much greater pressures on whoever is the organization or group of people tasked to find these people...to find the new director to put in their person because they will know that without the PE requirement, they have this opportunity to sway policy by who they pick. I don't mean to suggest that there is no policy implications with the directors that are PEs, but I think it is greatly increased if you get rid of that requirement. I would also say that the previous search was much more limited by the original salary that was being offered for the position than by the requirement that there be a PE. I do think that there are a few changes that could be made. It is not necessary to get rid of the professional engineer requirement for the director to change the other requirement from just five years in irrigation to include the broader list of water use, water development, water policy and still keep the PE requirement. I would even think that if we thought it necessary, we could specifically state that it would have to be a professional engineer licensed in civil, agricultural, and environmental engineering. I would even argue that you could add professional geologist to the list because they have similar Board of Geologists with similar codes of conduct and therefore, a similar check would be in place. But I think it would be a real mistake for the state to get rid of the requirement that the state engineer be a professional engineer. And I think that we have had this requirement serve this state well for so many years. And I don't see

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the need for us to change it now. I certainly agree, Ron was right, there's a number of people that I can think of that would probably be good directors and trustworthy, but I don't think we should let our current people that we see lead us into making a long-term decision that could ultimately have a negative outcome. There are people that I would trust to handle cases for me before a judge, even though I know they have no law degree. There are people that are probably qualified enough to do surgery on me without ever having gone to school, but I think we need to keep in place the requirements that we've had. Let's not dilute our requirements in order to increase the pool of applicants. And I'd be glad to take any questions, Senator.

SENATOR SCHROCK: Thank you, Mike. Any questions? Senator Kremer.

SENATOR KREMER: Isn't it quite common that a director or anybody in a leadership position doesn't have to know everything, but the people around him are very important. Where would Senator Schrock be without Jody? (Laughter)

MICHAEL A. DRAIN: I agree, Senator. I think that certainly the department does not ride on the shoulders of one individual, and I agree that no one person can have all those qualifications. When the director makes a decision, a decision of fact will be viewed with deference by the courts if that decision is ever appealed, and I want the decision of fact to be made by an engineer. The decisions of policy, the decisions on budgeting, all those other things can be taken to another higher authority if necessary.

SENATOR KREMER: Okay.

SENATOR SCHROCK: I didn't see the humor in your comments, by the way, Bob.

SENATOR KREMER: Didn't you? That's okay. (Laughter)

SENATOR SCHROCK: Senator Stuhr.

SENATOR STUHR: I'm just sitting here thinking about our constitutional officers, for instance, who the State Treasurer, you know, there are no specific requirements, State Auditor, I don't, there is no specific requirement

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that, and I'm also thinking of some of the other agency heads, the Chief Administrator, I don't think there's a requirement that they are CPAs, or...so, what are your comments in relationship to some of the other agencies?

MICHAEL A. DRAIN: Well, by my own personal experience, I'm not involved in accounting. I can't tell you whether or not it would be a good idea for those other agency heads to have stronger conditions placed...requirements on them. I don't see why we would want to reduce our requirements to meet those of others. Perhaps the question should be why other committees are not introducing legislation to improve the requirements or qualifications for their other heads. I can't address those. I am a little surprised. I would suspect, now, I don't believe the Attorney General, the Attorney General in my understanding is an elected office, but I don't know that right now a non-attorney could be elected Attorney General and practice law. Maybe they'd be Attorney General under the Constitution, but I don't think they'd be allowed to practice. And the department director is certainly being asked to make decisions of a technical nature.

SENATOR SCHROCK: Senator Smith.

SENATOR SMITH: Now the current statute only requires professional engineer, is that correct?

MICHAEL A. DRAIN: That's correct.

SENATOR SMITH: And it's my understanding that there's a whole variety of professional engineers from electrical, mechanical, even within civil engineering there is transportation and there's water and there's solid waste, but you're saying, any of those would be good enough.

MICHAEL A. DRAIN: I didn't say any of those would be good enough, Senator. What I said was, what I did agree is the language says they have to be a professional engineer. The language also specifies a few other things, for example, that you need to have years of experience in irrigation work. That probably reduces the numbers of types of engineers, but again, you may have an electrical engineer that would slip in that has some experience. I would agree, by the way, and I think I tried to make this point in my

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testimony, that you probably could get rid of the irrigation requirement and replace it with that other list that is in there now. It talks about water use, water conservation, water policy, but the other thing that is there is the code of conduct that's not listed in that particular statute, but applies to all professional engineers. An electrical engineer is prevented in the code of conduct from making a decision for which they don't have qualification. They would know from the code of conduct that they're required to go to someone who is qualified and then they would have to make their decision based upon that input from the properly qualified person. If you get rid of that requirement, there's no guarantee. Yes, we say that the other staff members of the director may be professional engineers, but there's no code of conduct that requires that that director now take the information provided by his or her professional engineering staff and apply it. I would, and I also believe I made this point in my testimony, I think that it would be fine to further identify what categories of engineers, but you can do that without eliminating the requirement that you be a professional engineer. So it could say a civil, environmental, agricultural engineer if the concern is that we're going to get a nuclear engineer in there.

SENATOR SMITH: Thank you.

SENATOR SCHROCK: Other questions? Mike, what is your...you're an engineer, what kind of an engineer?

MICHAEL A. DRAIN: I'm a civil engineer by training. I got a Bachelor's and a Master's Degree from the University of Nebraska in Lincoln and I specialized in Water Resources. If that deletes the next question of whether or not I'm eyeing this job, I got to tell you right now, the answer is no, and...

SENATOR SCHROCK: No, I...that wasn't the next question. (Laughter) And your boss is an engineer, and what is his...

MICHAEL A. DRAIN: He's an electrical engineer...

SENATOR SCHROCK: Okay.

MICHAEL A. DRAIN: ...by training.

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SENATOR SCHROCK: Okay.

MICHAEL A. DRAIN: Yeah. And...

SENATOR SCHROCK: And you've made it quite clear you're testifying on your own behalf today.

MICHAEL A. DRAIN: Please don't ask me on my position on whether I'd want my boss to be the director of the Department of Natural Resources.

SENATOR SCHROCK: Oh, no. No. But has Don weighed in on this, said anything to you?

MICHAEL A. DRAIN: No. Don has not talked to me about this. I believe that, don't hold me to this, I believe that our district has, through one of the other organizations it's involved with, perhaps NSIA or some other organization, as a member of an organization, taken some position. I don't believe that Tim is here testifying on this. It is my recollection that last year our district was in opposition to the similar legislation that was proposed.

SENATOR SCHROCK: I'm not familiar with that. Okay, counsel says that your...the Central Nebraska Public Power and Irrigation was opposed to this legislation last year.

MICHAEL A. DRAIN: I trust your assistant's...

SENATOR SCHROCK: All right.

MICHAEL A. DRAIN: ...recollection on that.

SENATOR SCHROCK: I don't have that good of memory.

MICHAEL A. DRAIN: I suspect that my...

SENATOR SCHROCK: You don't have a similar requirement for the general manager of your irrigation district, do you?

MICHAEL A. DRAIN: No, we do not.

SENATOR SCHROCK: All right.

MICHAEL A. DRAIN: And our general manager is not tasked

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under law to make the types of decisions that the director is.

SENATOR SCHROCK: (Exhibits 7 and 8) All right. Is there any more questions for Mike? Well, I have letters of opposition here by Gretchen Livingston, who is president of the Professional Engineers Coalition. I'm trying to think, is that from a national organization or state? I'm not sure.

MICHAEL A. DRAIN: Senator, the Professional Engineers Coalition, I believe, is a coalition of like the Nebraska state...

SENATOR SCHROCK: Is this a Nebraska coalition or...it just says, Professional Engineers Coalition.

MICHAEL A. DRAIN: Similarly, I can't tell you with absolute certainty, but I believe the Professional Engineers Coalition is an in-state coalition of...

SENATOR SCHROCK: It says here, professional surveyors of...well, it doesn't either say.

MICHAEL A. DRAIN: I believe it's made up of the Nebraska Society...

SENATOR SCHROCK: All right.

MICHAEL A. DRAIN: ...of Professional Engineers and...

SENATOR SCHROCK: And then I have a...

MICHAEL A. DRAIN: ...a number of other organizations.

SENATOR SCHROCK: Then I have a letter of opposition from Loren Steenson, president of the American Council of Engineering Companies of Nebraska. All right. Is there other opposition testimony?

TOM KNUTSON: Mr. Chairman and members of the committee, my name is Tom Knutson, T-o-m K-n-u-t-s-o-n. I'm general manager for the Loup Basin Reclamation District, Farwell and Sargent Irrigation Districts out of Farwell, Nebraska. I come before you on behalf of the Loup Basin Water

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Development Association, which is an association of five irrigation districts and two reclamation districts within the Loup Basin area. We are opposed to the bill. I think the young man before me probably outlined the technical aspects of concern better than I ever could and I'd probably just fall upon his shoulders as far as what was said. I've been in the business as far as water resources for 30 years and have traveled the western states all those years and serve on a national water resource association board of directors, and when you go throughout the western states, they have state engineers, and I think for the reasons that the young man before me testified. And it is a technical arena. It's a real concern when you get into these issues of attempting to decide what needs to be done. And myself, I'm not an engineer. I wouldn't want to be in the shoes that Roger has been in the last five years or more when he's had to make these very difficult decisions. And I can only say that I think we'd feel a lot more comfortable leaving it alone. Maybe there are some changes such as Mike suggested in regard to expanding the engineer's qualifications to agricultural, civil, or whatever, but we really would feel a lot more comfortable leaving the qualifications as they are. I think, Mr. Chairman, that back when the position was vacant, the salary was low, but I believe we've covered that and I think if Roger moves on at some point, hopefully the salary will be attractive enough to get a bigger pool because at the time when this was advertised, I don't think that salary was part of the information. And with that, Mr. Chairman, I'd be more than happy to answer any questions.

SENATOR SCHROCK: Thank you, Tom. Questions? Tom, I don't refer to Roger as our state engineer and in my time spent here I've always heard him referred to as the director of the Department of Natural Resources, so I never even gave that much thought as, I think that's the general...is that the general perception out there? He's the director of the Department of Natural Resources?

TOM KNUTSON: Yes. Yes.

SENATOR SCHROCK: I don't see people referring to him as the state engineer.

TOM KNUTSON: Yeah, I understand. Maybe other states use

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that term more loosely than we do.

SENATOR SCHROCK: Okay. Thank you for being here. If there's no questions, more questions? Next opponent.

AL SCHMIDT: Mr. Chairman, members of the committee, my name is Al Schmidt, S-c-h-m-i-d-t. I work for the Middle Loup Irrigation District out at Arcadia, Nebraska. I'm currently serving as president of the Nebraska State Irrigation Association and I appear before you today on their behalf, as well as my own district. If we could use a, what's becoming a tired cliché already, is we, with the passage of LB 962, we move into a new era of water management that is going to bring a whole host of unpopular, controversial decisions. We feel that it's very critical that we maintain not only the integrity, but the credibility of the director of the Department of Natural Resources. We're very hesitant to see any relaxing or blurring of the standards that have been the... historical there. I've had occasion over the years to deal with at least four directors of the department. I've disagreed with every one of them on a variety of rulings or decisions. In that time I've never found any reason to question their competence in the position or their integrity. To me, that implies that the current standard is working. I see no particular reason to change it. The argument that the current standards would create a very small pool is probably legitimate, but I think it should be. It isn't a position that I think Joe Average (sic) is going to fill very well. So I would very briefly summarize my position, and I think the position of the association, "If it ain't broke, don't fix it." I would urge you to maintain the current standards and continue with the standards that we have used in the past in light of the results we've gotten from those standards. And that, I guess, would be the sum total of my testimony or my thoughts on the matter, unless there are questions. Thank you for the opportunity and that concludes it.

SENATOR SCHROCK: Thank you, Al. Senator Smith.

SENATOR SMITH: I'm not sure I needed much convincing by the first testifier or not, but it's pretty convincing when he listed a list of names and individuals who most of us know as being pretty qualified. Can you agree with that?

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AL SCHMIDT: I think the individuals that he mentioned, yes, but...

SENATOR SMITH: I mean, to use your word, credible?

AL SCHMIDT: Those limited individuals would be. I don't know as they're a reason to throw out the standards. They don't disqualify...they don't minimize the qualifications that we currently have.

SENATOR SMITH: I mean, I had a roommate in college, as a civil engineer, and rather picky into what field he was entering, and that was the transportation area of civil engineering, did not even want to think about water projects or solid waste or whatever. And so I can see in this day and age where it would be hard to get an engineer who wants to be involved in as much policy work that is required of the director of this department. And so, I mean, the credibility issues and so forth, I think we can carry out regardless of a test that one has taken. Would you agree with that?

AL SCHMIDT: Well, let me, if I could, argue with your point just a moment. I don't think, if someone isn't interested in the position, I don't think we should be considered if he's reluctant to take on the responsibility of the management and all the, everything else that goes with it.

SENATOR SMITH: Right. And I guess my point is that this is not the typical engineering job. And especially if the deputy is, you know, would fulfill that capacity.

AL SCHMIDT: I believe that when push comes to shove, it is a very technical engineering position, and from our perspective, I want the guy, or the person who's going to make the decision, to have the training and be the type of individual that is capable and comfortable making technical decisions.

SENATOR SMITH: Thank you.

SENATOR SCHROCK: Other questions for Al?

AL SCHMIDT: Thank you.

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SENATOR SCHROCK: Thank you for being with us. Additional
opponent testimony?

RON WOLF: Mr. Chairman and members of the committee, my name is Ron Wolf, R-o-n W-o-l-f. I'm here representing the Nebraska Water Resources Association and to ask you to not pass this bill. My notes have been butchered by the previous testifiers, but if I might, I'd like to address some of the things that I did hear being brought up. The qualifications of the director of DEQ, DMV, HHS, the treasurer, I'm fairly sure some, I don't know if all of those positions, I doubt if all of those positions, I can't quote them, act in a judicial hearing officer manner. That is one of the major duties of the director of the Department of Water Resources. The facts are constantly quoted, it's somewhere above 90 percent of the water in Nebraska that is used is used for irrigation. I can neither confirm nor dispute that, but I think that's fairly well accepted across the state. I would wager if you look back, 90 percent of the adjudications the director will do will be on surface water rights. Those are, again, 90 percent irrigation rights. He needs that irrigation experience. It's nice to have staff people with experience, but if you're the judge signing the ruling it is your responsibility to weigh the testimony of the people that appear before you. I think the young engineer that was here previous to me seemed to not denigrate that, but play down the need for irrigation experience. I guess that's been my experience. I see it the other way. It's an extreme requirement, I think, in this position. Engineers and ethics, can I tell a little story, Senator Schrock, please?

SENATOR SCHROCK: Go ahead.

RON WOLF: My grandfather used to tell about half a dozen blind fellows in India who'd try to go from one town to another, but they couldn't find a guide. Now, these fellows were engineers. They're sharp, no one doubted their integrity or their intelligence. Paved road, we'll just walk it, we don't need a guide. Well, they bumped into an elephant that was sunning itself and when they get to the next town, they began describing this wondrous beast they'd encountered and of course, one that had the tail said it was like a rope hanging out of the sky, the one with the trunk said no, it was like a big snake, and of course the ear was

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the waving leaves, et cetera. The point of the story is, these were honest men, these were men of integrity, these were intelligent men. They had no experience with elephants and there wasn't a damn one of them knew what he was talking about. You need that irrigation experience to handle the elephants that are going to pop up in front of this position in the future. I don't know what a typical engineering job is. I know the Bureau of Reclamation since 1902 has typically had engineers as area managers, which I'm sure any of you that have dealt with them, that is a very political job, also involved in policy planning. Central Nebraska Public Power District right now has an engineer as a general manager and those of you that are familiar with that district, policy planning, water conservation, and politics, I'm sure, is eating up a lot of Mr. Kraus's time. So it's obvious to me there are engineers out there that can handle both. To me, it's apparent that we need the experience in the irrigation field to be able to weigh properly the nuances, I guess, if that's the way to put it, of testimonies that may appear before him as a judge. I think everybody else has pretty well covered everything that I could think of and more. I would sure try and answer any questions if you had any.

SENATOR SCHROCK: Thank you, Ron. I must confess I've never heard that story before about the elephant. Are there questions? Appreciate you being with us.

RON WOLF: Thank you, sir.

SENATOR SCHROCK: Next opponent? Is there neutral testimony? Senator Kremer, would you like to close?

SENATOR KREMER: I think I'll close from here.

SENATOR SCHROCK: Sure.

SENATOR KREMER: I was going to waive closing, but I wanted to bring out one point and that was that if the candidate is somebody that had all the other qualifications and an engineer, too, that would probably be great and it would probably weigh heavily on the selection of that person for this position. But you could very well have somebody that was extremely qualified in many other areas and not have an engineering... just in order to expand the pool of

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candidates, I think it would be very appropriate that we do this. And I think it doesn't mean they can't have the degree in engineering. As we heard, engineering is a lot of different degree; it can be a lot of different forms, so I think that a lot of those engineering degrees would not even be helpful. But I think it sure does give us a broader pool to draw from and I think it's very important to get the most qualified people for this position. It's a very intense position that's very important to our state as water is probably the premier concerns that we have now and it's very, very important that we get the best candidates that we can. So with that, thank you.

SENATOR SCHROCK: Thank you, Senator Kremer. That will close the hearing on LB 359. And we'll open the hearing on LB 140.

LB 140

JODY GITTINS: Good afternoon, Chairman Schrock, members of the committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s, committee counsel for the Natural Resource Committee and presenting LB 140 on behalf of Senator Schrock. This is another bill that was presented to Senator Schrock by the Association of Resource Districts. It would allow a tenth member of the Water Well Standards and Contractors' Licensing Board. It would expand that board to include a groundwater technician. This is one of the classifications that is currently being licensed by the board, and several other representatives of other types of work that they do are licensed by the board and are included as board members. If you look at the first section, it talks about a water well contractor representing irrigation water well structures, a water well contractor representing domestic well contractors, a water well contractor representing municipal and industrial well contractors, a pump installation contractor, a manufacturer or supplier of water well or pumping equipment. This simply adds that another gubernatorial appointment would be a natural resources groundwater technician.

SENATOR SCHROCK: Questions for Jody? Thank you. Proponent testimony, please?

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JOHN THORBURN: (Exhibit 9) Good afternoon, Mr. Chairman, Senators. I am John Thorburn, J-o-h-n T-h-o-r-b-u-r-n, manager of the Tri-Basin Natural Resources District in Holdrege, testifying on behalf of the Nebraska Association of Natural Resources Districts in support of LB 140, which is intended to give an NRD representative licensed by the Water Well Licensure Board the opportunity to serve on that board. Natural resources districts are the local political subdivisions in Nebraska which the Unicameral has charged with the responsibility to regulate groundwater resources. As part of that responsibility, NRD personnel do work like operating drinking water systems, repairing flow meters, measuring groundwater levels, and sampling groundwater for water quality testing. All these tasks require our employees to get licensed by the Water Well Licensure Board. In fact, 93 NRD personnel currently hold licenses in at least one of the ten water well license categories. That's 12.5 percent of the 736 active licenses. NRD personnel also work closely with local well drillers. We issue well construction permits, we administer cost-share programs for well decommissioning, flow meters, drilling livestock water wells, and improving the efficiency of irrigation systems. We also help well drillers and landowners with well registration issues. Our working relationship with local well drillers ensures that our representative on the Well Licensure Board will have a broad knowledge of the issues that the board reviews. For all these reasons, we believe it is appropriate and useful to add an NRD representative to the Water Well Licensing Board. Once again, I urge the committee to vote to advance LB 140. Thank you for your attention to my testimony.

SENATOR SCHROCK: Thank you, John. Questions for John? John, you're supporting this on behalf of the Association of Resources Districts?

JOHN THORBURN: Correct.

SENATOR SCHROCK: Is there a feeling right now that you don't have any connection to this board, that you don't have any representation on the board, or are you?

JOHN THORBURN: Well, yes, Senator, as your committee counsel pointed out, a number of the other categories are represented on the board are one of our particular

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categories. And in fact, in discussion with some of our managers, we thought it might be appropriate to broaden that a little bit and allow any license holder who is employed by the NRD, that might be a consideration for you, for the committee, to serve on the board. But point being that we do work closely with well drillers and we think it is appropriate for us to have some role to play on that Water Well Licensing Board.

SENATOR SCHROCK: Other questions for John?

SENATOR STUHR: I just have one.

SENATOR SCHROCK: Senator Stuhr.

SENATOR STUHR: Do most of the natural resource districts, do all of them have a water technician person?

JOHN THORBURN: Virtually all of them, I believe there may be one or two that do not, but yes, most districts have at least one person who is licensed by that board.

SENATOR STUHR: Okay. Thank you.

SENATOR SCHROCK: Other questions? If not, we thank you for being with us for the second time.

JOHN THORBURN: Thank you.

SENATOR SCHROCK: Is there other proponent testimony? Is there opponent testimony?

LOREN TAYLOR: (Exhibit 10) Mr. Chairman, members of the committee, my name is Loren Taylor, L-o-r-e-n T-a-y-l-o-r. I come before the committee today in opposition of LB 140. Unlike when I sat here a few minutes ago, I know what I'm talking about here. I've studied this. I know the Well Drillers Licensing Board from front to end. I'm one of the individuals, and I will not take the credit for it, but I'm one of the individuals that some 20 years ago the people in the industry and some other people said, we need to be doing something about protecting our groundwater. In 1986, the Nebraska Well Drillers, who I represent today, the Nebraska Well Drilling Association, I should say, who I represent today, worked with some senators, we got a bill introduced,

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we got it passed in 1983 or '86 creating the Water Well Standards and Contractors Licensing Board. I was appointed by the governor to serve on that board. Initially, there was five people from the water well industry. There was four people from state government that...so there's a nine member committee. I served on the board for 12 years. When my term expired I had to leave. I continued to be active on various committees and the board does not need more members. The NRDs have come to the board various times, we've accepted them, we've taken all their suggestions, or any other special interest group. The board always takes time to hear everybody's problems, try to work out solutions. The board will continue to listen to the NRDs or any other special interest group. At this time, we have a member, an NRD board member on the Licensing Board. We've had NRD members on the Licensing Board before and we encourage that. The thing that...if an employee or manager of an NRD board today is a pump installer contract, he can serve on the board, so there's all kinds of avenues for the NRD to get to the board and to get whatever they need from the board. I strongly urge you not to move this bill. Thank you. I appreciate the opportunity.

SENATOR SCHROCK: Thank you, Loren. Questions? What great damage would this do if we did this?

LOREN TAYLOR: I hope there's not too many people here, but I'll go ahead and say it anyway. When the bill was put together, the well drillers, the Nebraska Well Drilling Association, we worked it out that we have five members from the industry. The industry controls the bill. They control the activities of the board. It says in there that the Health and Human Services will administrate it with advice and consent of the board. That means the board runs it and throughout the years there's been some issues that came before us. Like any other board who was not necessarily popular, some of them was tough to make and the board did go against the Health Department on a few issues because we felt it was, that was the law, not somebody's feelings. And when I took it upon myself, I told the other people from the industry, we are appointed by the governor to enact the law and not what our public...what our feelings are and we would like to keep it that way so the board is controlled by the industry, the people that know the business.

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SENATOR SCHROCK: You aren't inferring there's a lot of five-four votes, are you?

LOREN TAYLOR: No, I'm not. But there has been...what happens, I've seen it happen, there will be a five to nothing vote because the state agencies abstain because they have to go back and ask their boss how to vote. The people in the industry have to make up their mind. I was sitting there listening a little bit when the NRDs were trying to get a little money for per diem or more money and I think they probably need it. I got no opinion on that. I think back to when we started putting together, had we known what we was going to get into, we probably none of us would have accepted the job that the governor appointed us to because that's quite a job to put together this, everything that goes along with this act. I made one trip a week, I suppose, for the first two years to Lincoln, not paid for, no reimbursement whatsoever. The company paid for that, and the other companies did their representatives where from. It was an expense. It was an education, I'll tell you that.

SENATOR SCHROCK: How often do they meet now?

LOREN TAYLOR: Four times a year unless we have a special meeting.

SENATOR SCHROCK: And what was the reason you were meeting once a week for the first year?

LOREN TAYLOR: Well, because, I didn't know it, but LB 310, I think the number, was passed, we go to the meeting and there was nine of us sitting there. We elected a chairman and we said now we've got to put together the rules and regulations and all rules and regulations fall under a category like chapter 9, 10, 11, and 12, and 13, so all the rules and regulations have to be spelled out. We have an exam that you have to have; we had to get that put together so if somebody wants a license they have to pass the exam. We've got continuous education. I had no idea it was that complicated. And it would...one of the times that there was a five to no vote was when we hired our own counsel to help us put this together. We was using state people that was assigned to us. We was getting nowhere. Finally, the board said, we are going to do. We made a motion, we passed it, and we hired counsel to help us get the rules and

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regulations drafted that could go to the Attorney General to see if they was legal and then go on to the governor and get them signed. It was interesting, quite an education we got there. And we'd just like to keep it that way because it works. The baby is with a... committed the board works right now. And we'd like to keep it there.

SENATOR SCHROCK: And your association has taken a...

LOREN TAYLOR: Stand on that, also my company, Sargent Irrigation has taken a stand on it; Rausch Irrigation, I talked to their representative and they're...and that's the only two I've talked to though.

SENATOR SCHROCK: All right. Thank you, Loren. If there's no other questions.

LOREN TAYLOR: Thank you.

SENATOR SCHROCK: (Exhibits 11 and 12) The next opponent? We have, is there a letter I'm missing here?

JODY GITTINS: Well, I gave it to you once. One second, there it is.

SENATOR SCHROCK: Tom Downey from Grant; he's a water well contractor in Nebraska, Colorado, and Kansas, and he is opposed to the bill. Are we missing one here?

JODY GITTINS: Um-hum. It's Wayne Madsen's.

SENATOR SCHROCK: And Wayne Madsen, he's opposed to the bill. Is there neutral testimony? If not, I will waive closing and we close the hearing on LB 140.